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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,073

09/30/2003

Jeyhan Karaoguz

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CHICAGO, IL 60661

EXAMINER

RYAN, PATRICK A

ART UNIT

PAPER NUMBER

2427

MAIL DATE

DELIVERY MODE

01/14/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/675,073

Applicant(s)

KARAOGUZ ET AL.

Examiner

PATRICK A. RYAN

Art Unit

2427

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-44.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427

/P. A. R./
Examiner, Art Unit 2427

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant presents, Reply Under 37 CFR 1.116 received December 20, 2010 ("Reply"), that the combination of Ellis, Zustak, and Moynihan does not teach or suggest the Claim 1 limitation of "establishing said private television channel comprises receiving via a user interface at said first home a selection of one or more devices that are permitted to receive personal media via the private television channel" because the user interface of Moynihan is not equivalent to the claimed user interface (Reply bottom of Page 11 to top of Page 12; with further reference to Final Office action mailed October 25, 2010 "Final" bottom of Pages 6-7). Applicant further presents, with respect to the cited teachings of Moynihan, that "...the Examiner fails to show how the selection of viewers to receive media is in any way associated with 'establishing said private television channel,' as recited in claim 1" (Reply top of Page 12). Applicant additionally presents, with respect to the cited teachings of Moynihan, that "...having a user control how and/or whether that user's content is accessed by viewers at the Internet/network server is not the same or equivalent to..." the above cited limitation of Claim 1 (Reply middle of Page 13). The Examiner respectfully disagrees.

The Examiner initially notes that Applicant's arguments do not consider the combination as a whole and merely propose deficiencies in the Moynihan reference. In particular, the Examiner does not exclusively rely on Moynihan to teach the Claim 1 step of "establishing said private television channel", and rather relies on Ellis to teach this limitation (see Final Page 4). The Examiner submits that the Moynihan reference is, in part, used to establish a teaching of controlling distribution of media content by way of "a user interface" and it is this "user interface" that is not clearly established in the Ellis and Zustak references.

Applicant additionally appears to argue that Moynihan's user interface allows an end user to select "viewers" and not "devices" that are permitted to receive media (Reply Pages 12-13). However, as presented in Final top of Page 7, the Examiner has previously stated that Moynihan's user interface of Figure 12 allows "the channel owner to control access to content based on a number of factors including IP address" (Moynihan Paragraph [0085]). It is the Examiner's position that an IP address identifies a device and therefore Moynihan's user interface functions to allow an end user to select one or more devices that are permitted to receive media, as required by Claim 1 and similarly independent Claims 11, 21, 32, 37 and 39.

/PAR/